



THE CITY OF REDMOND
HEARING EXAMINER

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE HEARING EXAMINER *PRO TEMPORE* OF THE
CITY OF REDMOND**

**IN THE MATTER OF THE APPLICATION)
OF EASTSIDE HOUSING ASSOCIATION)
FOR APPROVAL OF A CONDITIONAL)
USE PERMIT)**

FILE: CUP 02-003

Avondale Park Child Care Center

RECOMMENDATION

The Redmond Hearing Examiner *Pro Tempore* recommends that the City Council **APPROVE** the application of the Eastside Housing Association for a Conditional Use Permit.

INTRODUCTION

The Eastside Housing Association (EHA) filed a Conditional Use Permit (CUP) application on September 16, 2002. The Redmond Department of Planning and Community Development (Planning) deemed the application to be complete as of September 30, 2002. (EHA has waived the "120 day" decision making requirement of RCDG 20F.30.25-030. (Testimony))

The subject property is located on the west side of Avondale Road between NE 95th and NE 98th Streets in the Education Hill Neighborhood planning subarea.

John E. Galt, Redmond Hearing Examiner *Pro Tempore* (Examiner *Pro Tem*) viewed the subject property on March 5, 2003.

The Examiner *Pro Tem* held an open record hearing on March 5, 2003. Planning gave notice of the hearing as required by the Redmond Community Development Guide (RCDG). (Exhibit B.10)

Testimony under oath was presented by:

Bridget Wheeland, Hopelink
Tom Eanes, Project Architect

Alison Lorig, Lorig Associates, LLC
Steven Fischer, Planning

The following exhibits were offered and admitted:

- Exhibit A: Technical Committee Report
- Exhibit B: Technical Committee Report Attachments 1 – 10
- Exhibit C: Planning PowerPoint presentation
- Exhibit D: Building elevations

The action taken herein and the requirements, limitations and/or conditions recommended by this action are, to the best of the Examiner *Pro Tem*'s knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

ISSUES

Does the application meet the criteria for CUP approval as established within the RCDG?

No testimony or evidence was entered into the record by the general public in opposition to the application.

FINDINGS OF FACT

1. EHA, a non-profit consortium of Hopelink, Friends of Youth, and Catholic Community Services, proposes to construct a day care center on the subject property. The subject 4.2 acre site is part of a larger parcel known as the Coast Guard Property. The Coast Guard Property was purchased by the City of Redmond in 1997 and short platted in 2001 under File No. SPL-00-003. This short plat created four parcels: a market rate housing development (*Taluswood*); a parcel for 20 units of housing to be administered by Habitat for Humanity; a one acre neighborhood park (*Avondale Park*); and the subject 4.2 acre parcel for EHA. (Exhibits A and B.4 and testimony)
2. The proposed day care facility is to be constructed in the southern most tip of the 4.2 acre parcel between Avondale Road NE and the neighborhood park. It will be located next to a large stand of tall evergreen trees, some located on the EHA parcel, some located in the park. The facility is proposed to be a single story, 5,715 square foot building designed to serve up to approximately 60 children, many of whom are anticipated to reside in the associated EHA transitional housing nearby. The building has been designed with a shed roof to bring light into the classrooms. Its exterior materials and colors will be consistent with those of the other buildings which EHA proposes to construct on the 4.2 acre site. Construction is anticipated to begin in mid-2003. (Exhibits A, B.4, and D)
3. The EHA parcel is the last of the four Coast Guard Property parcels to be developed. On November 14, 2002, the City of Redmond issued a Site Plan Entitlement letter for this parcel for construction of 53 units of transitional housing, an administrative office building with eight units of shelter housing, and a day care facility. The Site Plan Entitlement is for the project as depicted in Exhibit B.4 and includes an extensive enumeration of development conditions. (Exhibit B.5 and testimony) All development review issues were

evaluated and addressed either through the short plat process or the Site Plan Entitlement process.

4. The proposed day care facility is located within the City's Education Hill Neighborhood, as defined by the 1995 Comprehensive Plan. None of the special policies for this neighborhood are applicable to this project. The following Land Use policies are applicable to this project:

LU-83 Trail and pathway systems should be used to provide transportation links and visual corridors to tie the City together. Sidewalks, bike paths and trails should link residential, commercial and manufacturing areas.

LU-95 Clusters of trees and native vegetation should be incorporated into site and building designs when appropriate. This policy should be implemented through design review and other land use reviews.

5. The site is zoned R-30, a multiple family residential zone allowing up to 30 dwelling units per gross acre. (Exhibit A)
6. Day care centers are a listed conditional use in the R-30 zone (as well as in virtually all other residential zones). [RCDG 20C.30.20-030] All day care centers are "Subject to Special Uses Criteria, RCDG 20D.170.50, Day Care." [RCDG 20C.30.20-030, Note 4]

(2) Day Care Centers (Residential, Commercial, BP and MP Zones).

- (a) Day care centers shall comply with all building, fire, safety, and health codes, and all applicable development standards.
- (b) Day care centers shall obtain a business license and maintain the use license as long as the use operates.
- (c) Day care centers shall obtain all required State approvals.
- (d) In the RA-5 zone, stand-alone day care centers are prohibited.
- (e) Day care centers shall not be located closer than 300 feet from another existing day care operation in residential zones.
- (f) The minimum lot size shall be 20,000 square feet in all residential zones.
- (g) In the NC zone, hours of operation may be limited if residential uses are located in upper stories of the same building.
- (h) In the NC zone, day care centers are limited to a maximum gross floor area of 5,000 square feet per establishment in mixed use or multi-tenant buildings.
- (i) Play equipment used in the day care operations shall be placed no closer than 10 feet from any property line.
- (j) Off-street parking for each employee shall be provided.
- (k) Building design, site plans and landscaping shall be of a character which is appropriate for the area.

- (l) Day care centers may be approved in new or existing churches and other places of worship, and no additional approval will be required provided all other requirements of this section are met.
- (m) Day care centers located in residential zones shall operate within the hours of 5:30 a.m. to 9:00 p.m. (Ord. 1930 (20C.80.7460))

[RCDG 20D.170.50-020(2)]¹

7. The property to the north is zoned a combination of R-12 and R-30 and developed for multiple family housing. *Avondale Park* is zoned R-30 as is the *Taluswood* townhomes development to the west. The property across Avondale Road NE is zoned R-6 and developed with single-family residences. (Exhibit A)
8. The nearest existing day care center is far more than 300 feet from the subject site. (Testimony)
9. The site is relatively flat. The estimated total vertical relief across the site from east to west is approximately two feet. The primary soil series found at the site is Kitsap Silt Loam. The soils on the site consist of 12 to 16 feet of sand mixed with silt. The site currently has minimal landscaping of shrubs and lawn areas that are associated with the existing transitional housing project. The most significant vegetative element is the 53 large Douglas fir trees located on this site. (Exhibits A, B.4, and B.7)
10. Vehicular access to the day care facility will be from NE 98th Place. This street was created as part of the short plat process and loops through the property linking both NE 95th Street and Avondale Road NE. Issues of pedestrian and vehicular safety were analyzed and determined to be satisfactory by the City of Redmond Technical Committee as part of the associated Site Plan Entitlement application for the total EHA project. (Exhibits A and B.4)
11. The day care center will be served by public utilities. Water will be provided from an existing water main located in NE 98th Place. Sewer service will be provided by means of a 6-inch side sewer connection out to Avondale Road NE. Storm water from the rooftop of the day care facility will be tight-lined to an infiltration trench located south of the building. Storm water from the streets and parking areas will be directed to a new storm water detention vault that will be constructed as part of the EHA project and then tight-lined out to the public system in Avondale Road NE. The issue of adequate public facilities was examined as part of the Site Plan Entitlement review for the associated 61 units of transitional/shelter housing to be located on this same parcel. Adequate water, sanitary sewer, and police and fire protection are available at this site. (Exhibit A)
12. A trail connection to the adjacent neighborhood park will be created, linking both the day care facility and the associated transitional housing project to the park. A short walk through the park leads to a public transit stop. Additionally, the internal sidewalk system

¹ These requirements were analyzed only verbally by staff and applicant during the hearing. They are not addressed in the written materials.

throughout the transitional housing project, and the short plat, provide linkage for all neighborhood residents to the day care facility. (Exhibits A and B.4)

13. EHA is now aware of and intends to comply with the requirements of RCDG 20D.170.50-020(2)(b), (c), (i), and (m). (Testimony)
14. The day care center will have approximately 17 employees. (Testimony) Some 30 parking stalls will be available in the immediate vicinity of the day care center. (Exhibit B.4) The proposed parking complies with RCDG requirements. (Testimony)
15. On October 7, 2002, the City issued an addendum to the existing Determination of Non-Significance (DNS) that had been issued on October 11, 2000, for the overall Coast Guard Property redevelopment project. The appeal period ended October 21, 2002. (Exhibit B.8). No comments were received during this period. (Exhibit A)
16. The Technical Committee recommends approval of the requested CUP without any special conditions: The extensive conditions contained within the Site Plan Entitlement are considered sufficient. (Exhibit A and testimony)

PRINCIPLES OF LAW

Authority

A CUP is a Type IV application which is subject to an open record hearing before the Examiner. [RCDG 20F.30.15-040 and 20F.40.40-030] The Examiner makes a recommendation on the application which is subject to the right of reconsideration and then final action by the Council. [RCDG 20F.30.15-060 and 20F.30.45-100]

The Hearing Examiner shall make a written recommendation to approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with applicable decision criteria of the Redmond Community Development Guide. ... In all other cases, the Hearing Examiner shall make a recommendation to deny the application.

[RCDG 20F.30.45-100]

Review Criteria

The review criteria for CUP applications are stated at RCDG 20F.40.40-040:

- (1) The conditional use is consistent with the Redmond Community Development Guide, which includes the Comprehensive Plan;
- (2) The conditional use is designed in a manner which is compatible with and responds to the existing or intended character, appearance, quality or development, and physical characteristics of the subject property and immediate vicinity;
- (3) The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
- (4) The type of use, hours of operation, and appropriateness of the use in relation to adjacent uses shall be examined to determine if there are unusual hazards or characteristics of the use that would have adverse impacts;
- (5) Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;
- (6) The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;
- (7) Conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities;
- (8) If applicable, the application must also conform to the standards established in Chapter 20D.170 RCDG, Special Uses.

A “consistency determination” is also required.

Consistency. Site plans are reviewed by the City to determine consistency between the proposed project and the applicable regulations and Comprehensive Plan provisions.

- (a) A proposed project’s consistency with the City’s development regulations shall be determined by consideration of:
 - (i) The type of land use;

- (ii) The level of development, such as units per acre or other measures of density;
 - (iii) Availability of infrastructure, including public facilities and services needed to serve the development; and
 - (iv) The character of the development, such as development standards.
- (b) Upon review of a site plan, the decision maker shall determine whether building design and site design complies with the following provisions:
 - (i) RCDG Titles 20A, *Preface and Definitions*, 20B, *Comprehensive Plan*, 20C, *Land Use Regulations*, 20D, *City-Wide Regulations*, and the Appendices that carry out these Titles.
 - (ii) The provisions of RCDG Title 20E that affect building location and general site design.
 - (iii) The Washington State Environmental Policy Act (SEPA) if not otherwise satisfied.
 - (iv) RCDG Title 20F, *Administration and Procedures*, to extent they provide the procedures to ensure compliance with the requirements in Subparts (I) and (iii).
- (c) Not included in the site plan review are full compliance with the building and construction codes (included in RCDG Title 20E), the requirements for construction drawings and approvals, and the specific location, size, and design of public facilities, which shall be determined during building permit review and construction drawing review. Building permits and construction drawings shall comply with the approved site plan.

[RCDG 20F.20.20-040(1)]

Vested Rights

"A vested right shall not arise by virtue of an application for a conditional use permit, site plan entitlement, special use permit, variance, development guide amendment, right-of-way vacation, annexation, temporary use permit, zoning map amendment or any other application submitted prior to application for a building permit." [RCDG 20F.10.60-030(1)(a)]

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof.
[RCDG 20F.30.45-100(1)]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS

1. The proposed day care center meets the basic CUP review criteria:
 - A. The project is not inconsistent with the Comprehensive Plan. Its design is consistent with those land use policies which are most applicable.
 - B. The day care facility will be constructed in conjunction with 13 other buildings to accommodate 61 units of transitional/shelter housing on this site. The architecture of the day care facility will be compatible with these other structures.
 - C. The design and location of the facility will not in any way impede reasonable traffic circulation within the redeveloped Coast Guard Property.
 - D. The site presents no topographical impediments to development. The design preserves the large stand of fir trees located astride the site/park boundary.
 - E. EHA has requested no modification of development standards.
 - F. As noted above, the design and location of the facility will not in any way impede reasonable traffic circulation within the redeveloped Coast Guard Property.
 - G. All public utilities are available at satisfactory levels.
2. In addition, the proposal meets all applicable requirements of RCDG 20D.170.50-020(2). (The requirements of subsections (b), (c), (i), and (m) are operational items to be met subsequent to construction of the facility. The requirements of subsections (d), (g), (h), and (l) are not applicable to this proposal: The property is not zoned either R-5 or NC; the day care center is not proposed for location within a place of worship. Therefore, none of those requirements need be considered during CUP review.) All evidence, as reflected in the Findings, demonstrates compliance with subsections (a), (e), (f), (j), and (k).
3. The proposal passes the consistency test: The proposed land use is allowed within the applicable zone; density is not a consideration since this is not a residential project; adequate utility services are available; the proposed design will blend harmoniously with the remainder of the EHA project.
4. The proposed day care center complies with all applicable criteria. Approval should be granted. The Examiner's open record hearing did not identify any area in which conditions needed to be imposed beyond those already imposed through the Site Plan Entitlement and Design Review processes. Therefore, the Examiner recommends outright approval.

5. Although not specifically a criterion for approval, the concept of providing a quality day care facility in close association with a transitional/shelter housing development is to be commended. Residents of such facilities frequently need day care so that they can find decent employment and stabilize their lives. The chosen location is ideal: It is within the housing project, easily available to other multiple family housing developments in the vicinity, and adjacent to a lovely, small City park.

RECOMMENDATION

The Examiner *Pro Tem* recommends that the application of the Eastside Housing Authority for a Conditional Use Permit be **APPROVED** subject only to compliance with the previously imposed and currently applicable Site Plan Entitlement conditions as listed in Exhibit B.5.

Recommendation issued March 10, 2003.

/s/ John E. Galt

JOHN E. GALT,
Hearing Examiner *Pro Tem*

Attachments:
1 - Site plan

PROCEDURE FOR RECONSIDERATION

Any party of record may file a written request for reconsideration by the Examiner *Pro Tem*. Requests for reconsideration must be filed with the Hearing Examiner's Office, City of Redmond, Mail Stop: PSFHE, 8701 160th Avenue NE, P.O. Box 97010, Redmond Washington, 98073-9710, not later than 5:00 p.m. on March 24, 2003. A request for reconsideration shall explicitly set forth alleged errors of procedure or fact. Timely filed requests for reconsideration will be processed pursuant to RCDG, Appendix 20F-2, §VIII.C.3.

NOTICE OF COUNCIL CONSIDERATION

You are hereby notified that the foregoing Findings of Fact, Conclusions, and Recommendations have been submitted to the Mayor and Redmond City Council for their consideration and action. Council action on this item will occur at a later date, of which you will be notified by mail.

<p>The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."</p>

SITE PLAN

